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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-985

Xanthan Gum from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2013-2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on xanthan gum from the People's Republic of China ("PRC"). The period of review ("POR") is July 19, 2013, through June 30, 2014.¹ The Department initiated this review with respect to eight companies, two of which have been collapsed with a mandatory respondent. The two collapsed mandatory respondents are: Deosen Biochemical Ltd./Deosen Biochemical (Ordos) Ltd. ("Deosen") and Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./ Xinjiang Fufeng Biotechnologies Co., Ltd. ("Fufeng"). The Department preliminarily finds that the mandatory respondent Deosen sold subject merchandise

¹ The POR for this administrative review begins on July 19, 2013, the date the International Trade Commission ("ITC") published its final determination of threat of material injury in the underlying investigation and the date from which merchandise subject to the antidumping duty order on xanthan gum from the PRC remains suspended from liquidation pursuant to the underlying investigation. The ITC's finding was not accompanied by a finding that injury would have resulted but for the imposition of suspension of liquidation. *See Xanthan Gum From Austria and China*, 78 FR 43226 (July 19, 2013). Accordingly, merchandise subject to the investigation remains suspended from liquidation beginning on July 19, 2013, the date the ITC published its final determination, *see Xanthan Gum From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 78 FR 43143, 43144 (July 19, 2013), and this date serves as the first day of the POR for this administrative review.

in the United States at prices below normal value (“NV”) during the POR, but that Fufeng did not. Interested parties are invited to comment on these preliminary results.

DATES: Effective date: Insert date of publication in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander or Erin Kearney, AD/CVD Operations, Office IV, Enforcement & Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0182 or (202) 482-0167, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The scope of the order covers dry xanthan gum, whether or not coated or blended with other products. Further, xanthan gum is included in this order regardless of physical form, including, but not limited to, solutions, slurries, dry powders of any particle size, or unground fiber. Merchandise covered by the scope of this order is classified in the Harmonized Tariff Schedule of the United States at subheading 3913.90.20. This tariff classification is provided for convenience and customs purposes; however, the written description of the scope is dispositive.²

Preliminary Determination of No Shipments

Based on an analysis of U.S. Customs and Border Protection (“CBP”) information, and questionnaire responses provided by A.H.A. International Co., Ltd. (“AHA”) and Deosen, the Department preliminarily determines that AHA did not have any reviewable transactions during the POR. For additional information regarding this determination, *see* the Preliminary Decision Memorandum.

² For a complete description of the Scope of the Order, *see* “Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Xanthan Gum from the People’s Republic of China,” (“Preliminary Decision Memorandum”), dated concurrently with this notice.

Consistent with an announced refinement to its assessment practice in non-market economy (“NME”) cases, the Department is not rescinding this review for AHA, but intends to complete the review and issue appropriate instructions to CBP based on the final results of the review.³

Preliminary Affiliation and Single Entity Determination

Based on record evidence, the Department preliminarily finds that Deosen Biochemical Ltd. and Deosen Biochemical (Ordos) Ltd. are affiliated pursuant to section 771(33)(G) of the Tariff Act of 1930, as amended (the “Act”) and should be treated as a single entity for AD purposes pursuant to 19 CFR 351.401(f). Furthermore, based on record evidence, the Department preliminarily finds that Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.), Shandong Fufeng Fermentation Co. Ltd., and Xinjiang Fufeng Biotechnologies Co., Ltd. are affiliated pursuant to section 771(33)(F) of the Act and should be treated as a single entity for AD purposes pursuant to 19 CFR 351.401(f). For additional information, *see* the Preliminary Decision Memorandum.

Separate Rates

The Department preliminarily determines that information placed on the record by the mandatory respondents Deosen and Fufeng, as well as by the separate rate applicants CP Kelco (Shandong) Biological Company Limited and Shanghai Smart Chemicals Co. Ltd., demonstrates that these companies are entitled to separate rate status. Hebei Xinhe Biochemical Co. Ltd., which did not claim that it made no shipments of subject merchandise during the POR, failed to submit a separate rate application or separate rate certification. Therefore, this company is not

³ *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011) and the “Assessment Rates” section, below.

eligible for separate rate status.⁴ Accordingly, the Department preliminarily finds that the PRC-wide entity includes this company. For additional information, *see* the Preliminary Decision Memorandum.

PRC-Wide Entity

The Department's change in policy regarding conditional review of the PRC-wide entity applies to this administrative review.⁵ Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the entity is not under review and the entity's rate is not subject to change (*i.e.*, 154.07 percent).⁶

Rate for Separate-Rate Companies Not Individually Examined

The statute and the Department's regulations do not address the establishment of a rate to be applied to respondents not selected for individual examination when the Department limits its examination of companies subject to the administrative review pursuant to section 777A(c)(2)(B) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents not individually examined in an administrative review. Section 735(c)(5)(A) of the Act articulates a preference for not calculating an all-others rate using rates which are zero, *de minimis* or based entirely on facts available. Accordingly, the Department's usual practice has been to determine the dumping margin for companies not individually

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 51548, 51549 (August 29, 2014) ("All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification...").

⁵ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

⁶ See *Steel Wire Garment Hangers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2012-2013*, 80 FR 13332 (March 13, 2015), and accompanying Issues and Decision Memorandum.

examined by averaging the weighted-average dumping margins for the individually examined respondents, excluding rates that are zero, *de minimis*, or based entirely on facts available.⁷ Consistent with this practice, because we preliminarily determine that the weighted-average dumping margin calculated for Fufeng is zero, the Department assigned to the companies not individually examined, but which demonstrated their eligibility for a separate rate, a margin equal to the weighted-average dumping margin calculated for Deosen.

Methodology

The Department is conducting this review in accordance with section 751(a)(1)(B) of the Act. The Department calculated export prices and constructed export prices in accordance with section 772 of the Act. Given that the PRC is a NME country, within the meaning of section 771(18) of the Act, the Department calculated NV in accordance with section 773(c) of the Act.

For a full description of the methodology underlying the preliminary results of this review, *see* the Preliminary Decision Memorandum.⁸ The Preliminary Decision Memorandum is a public document and is made available to the public *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

⁷ See *Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

⁸ A list of topics discussed in the Preliminary Decision Memorandum is provided in the Appendix to this notice.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the POR:

| Exporter | Weighted-Average Dumping Margin (Percent) |
|---|---|
| Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./Xinjiang Fufeng Biotechnologies Co., Ltd. | 0.00 |
| Deosen Biochemical Ltd./Deosen Biochemical (Ordos) Ltd. | 5.14 |
| CP Kelco (Shandong) Biological Company Limited | 5.14 |
| Shanghai Smart Chemicals Co. Ltd. | 5.14 |

Disclosure and Public Comment

The Department intends to disclose to parties the calculations performed for these preliminary results of review not later than ten days after the date of the public announcement of, or, if there is no public announcement, within five days after the date of publication of, the preliminary results of review in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review.⁹ Rebuttal briefs may be filed no later than five days after case briefs are due and may respond only to arguments raised in the case briefs.¹⁰ A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department.¹¹ The summary should be limited to five pages total, including footnotes.

⁹ See 19 CFR 351.309(c)(1)(ii).

¹⁰ See 19 CFR 351.309(d).

¹¹ See 19 CFR 351.309(c)(2), (d)(2).

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice.¹² Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. Oral argument presentations will be limited to issues raised in the briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined.¹³ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, with limited exceptions, must be filed electronically using ACCESS.¹⁴ An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5 p.m. Eastern Time ("ET") on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the APO/Dockets Unit in Room 18022 and stamped with the date and time of receipt by 5 p.m. ET on the due date.¹⁵

Unless otherwise extended, the Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

¹² See 19 CFR 351.310(c).

¹³ See 19 CFR 351.310(d).

¹⁴ See generally 19 CFR 351.303.

¹⁵ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

Assessment Rates

Upon issuance of the final results of this review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.¹⁶ The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For each individually examined respondent in this review whose weighted-average dumping margin in the final results of review is above *de minimis* (*i.e.*, greater than or equal to 0.5 percent), the Department intends to calculate importer- (or customer) specific assessment rates, in accordance with 19 CFR 351.212(b)(1).¹⁷ Where the respondent reported reliable entered values, the Department intends to calculate importer- (or customer) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to the importer (or customer) and dividing this amount by the total entered value of the sales to the importer (or customer).¹⁸ Where the Department calculates an importer- (or customer) specific weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to the importer (or customer) by the total sales quantity associated with those transactions, the Department will direct CBP to assess importer- (or customer) specific assessment rates based on the resulting per-unit rates.¹⁹ We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate is above *de minimis*. Where either the respondent's weighted average dumping margin is zero or *de minimis*, or an importer (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis*,

¹⁶ See 19 CFR 351.212(b)(1).

¹⁷ See *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012) ("*Final Modification*").

¹⁸ See 19 CFR 351.212(b)(1).

¹⁹ *Id.*

the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.²⁰

On October 24, 2011, the Department announced a refinement to its assessment practice in NME antidumping duty cases.²¹ Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, pursuant to this refinement, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number will be liquidated at the PRC-wide rate.

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The Department will instruct CBP to require a cash deposit equal to the weighted-average amount by which the normal value exceeds U.S. price. The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is zero or *de minimis*, then the cash deposit rate will be zero for that exporter); (2) for previously investigated PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will

²⁰ See *Final Modification* at 8103.

²¹ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 154.07 percent (4) for all non-PRC exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: July 31, 2015.

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

Appendix -- List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Selection of Respondents
5. Preliminary Determination of No Shipments
6. Single Entity Treatment
7. Discussion of the Methodology
 - a. Non-Market Economy Country
 - b. Separate Rate
 - c. Surrogate Country
 - d. Date of Sale
 - e. Comparisons to Normal Value
 - f. U.S. Price
 - g. Normal Value
 - h. Currency Conversion
8. Conclusion

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